E COURT, U. S.

No. 1081

FILED
FEB 24 1969
JOHN F. DAVIS, CLERK

In the Supreme Court of the United States

OCTOBER TERM, 1968

MARVIN J. MORSE,
Petitioner,

vs.

D. A. HINDMAN and CHARLEY A. LYND
Respondents.

ON PETITION FOR WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF KANSAS

Petition

MARVIN JAMES MORSE
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Pinole, California
Pro-se Petitioner

SORG PRINTING COMPANY OF CALIFORNIA, 346 FIRST STREET, SAN FRANCISCO 94105

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Petition

The pro se petitioner, Marvin J. Morse, prayes the Supreme Court grant a writ of Certiorari to review:[1]

The order of the Kansas Supreme Court entered on 29 January, 1969 in *Hindman v. Shepard,* denying petitioner's Motion to Dismiss for Lack of Jurisdiction.

CITATIONS TO OPINIONS

The order of the Kansas Supreme Court in *Hindman v. Shepard* is unreported but is set out in the Appendix at

1. The additional appellant-defendants are Barbara Hillman; Francis Gfeller; Margaret Christensen; Anna Alley; Laura Merritt; Elida Merritt; Bernadine Scott; and Rhaecilla Hanzen.

page 29 of the petition for Certiorari No. 1031 this Term, which petitioner adopts as part of this petition.

JURISDICTION

The Orders in the cases sought to be reviewed herein are as follows:

On September 3, 1968, the Rooks County District Court entered judgment against petitioner; (App. p. 23) on October 14, 1968, motion for new trial was denied; (App. p. 26) on November 13, 1968 petitioner filed Notice of Appeal; on December 6, 1968 (App. p. 27) the Court granted the Court Reporter additional time, to January 7, 1969, to prepare a transcript; on January 13, 1969 the Court denied petitioner's motion to dismiss for lack of jurisdiction; and on January 17, 1969 petitioner docketed the appeal, from the orders denying the motion to dismiss, in the Kansas Supreme Court, supported by certified copies of a "Record for Intermediate Hearing." (Records p. 1,023).

On January 29, 1969, the Kansas Supreme Court entered an order denying the motion without arguments, (App. p. 29b) this order denying a motion to dismiss is sufficient evidence that the highest Court in the State of Kansas intends to exercise *in REM* jurisdiction over the disputed property. The jurisdiction of this Court to review by writ of certiorari the order of the state Court's order denying a motion to dismiss is conferred by Title 28 U.S.C. 1257(3). *United States vs. Munsingwear* 340 U.S. 36, 40.

QUESTIONS PRESENTED

Petitioner adopts the Questions Presented in the petition in No. 1031 at page 4.

STATUTES INVOLVED

Petitioner adopts the list of Statutes Involved as set out in the petition in No. 1031 at page 6, and in addition K.S.A.

60-215(c) and Federal Rule 15(c) *Relation Back of Amendments*. Whenever the claim or defense asserted in the amended pleading arose out the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleadings, the amendment relates back to the date of the original pleading. . . . .

STATEMENT OF THE CASE

Petitioner adopts the Statement of the Case set out in the petition in No. 1031 at page 10.

REASONS FOR GRANTING THE WRIT

Petitioner adopts the Reasons for Granting the Writ set out in the petition in No. 1031 at page 19.

CONCLUSION

Petitioner suggests that if the relief prayed for be not granted that any United States citizen may henceforth be denied the protection of his rights under the United States Constitution and Federal law, by the simple device of the defendants countersuing in State Court.

For the foregoing reason, this petition for writ of certiorari should be granted.

Respectfully submitted,

MARVIN J. MORSE,
Pro Se Petitioner